

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Commonwealth Edison Company	:	
	:	
Approval of Energy Efficiency and Demand	:	No. 07-0540
Response Plan Pursuant to Section 12-103(f)	:	
of the Public Utilities Act	:	

**BRIEF ON EXCEPTIONS TO THE PROPOSED ORDER  
OF THE  
ILLINOIS INDUSTRIAL ENERGY CONSUMERS**

Pursuant to Section 200.830 of the Rules of Practice (83 Ill. Adm. Code Part 200.830) of the Illinois Commerce Commission ("ICC" or "Commission") and the briefing schedule set by the Administrative Law Judges, the Illinois Industrial Energy Consumers ("IIEC") present their Brief on Exceptions to the Proposed Order in this docket for the Commission's consideration. IIEC agrees with and supports the Proposed Order's adoption of IIEC's modified cost recovery mechanism in this case, which allocates the cost of energy efficiency and demand response programs to customer classes for which the programs are designed and implemented and collects those costs on a cents per kWh charge from all customers within the class. IIEC recommends some clarification of the Proposed Order on that issue, as discussed below.

**Exception # 1 -- Single Charge Cost Recovery**

IIEC suggests, for clarity in the Proposed Order's discussion of ComEd's single-charge proposal (Proposed Order at 36-38), that the Proposed Order include a more specific reference to the identified costs of service presented by IIEC that supports adoption of IIEC's proposal for class-specific recovery of energy efficiency and demand response programs costs and rejection of a single uniform per kWh charge. The fourth paragraph of Section IV.B.9 Single-Charge Cost Recovery from all Customers (Proposed Order at 36) should be modified as follows:

The IIEC points out that ComEd's programs and measures recognize the differences in electricity usage that ComEd's many types of customers have. To more properly allocate the costs amongst the three broad ranges of classes, the IIEC proposes a cost-recovery mechanism that reflects these differences. It points out that its witnesses were able to determine energy consumption levels for each of the three "classes" it has identified (*Id.* at 5-8), the class-specific costs of the Plan's distinctive programs for the classes, and an allocated share of overall program administrative costs.

The first sentence of the Proposed Order's Analysis and Conclusions (Proposed Order at 37-38) also should be modified, to preserve the clarity of the reasoning presented in support of the Proposed Order's conclusion on this issue.

The distribution of benefits from passage of the **statute** that mandates EE-DR programs is not at issue in this proceeding, and the record evidence is not so broadly focused. This case addresses the content and the effects of ComEd's specific energy efficiency and demand response **Plan**. Because the first sentence of the Proposed Order's Analysis and Conclusion might be misread (confusing the different scope and sources of benefits), the clarity of the Proposed Order's analysis could be diminished by any resulting confusion. Accordingly, IIEC recommends that the distinction between the Proposed Order's reference to the effects of the statute and the distinct effects of ComEd's Plan be clarified.

The evidence of record shows -- without contradiction -- that all customers do not benefit equally from ComEd's Plan. (*See*, IIEC Init. Br. at 13-16). In fact, both ComEd's and Staff's experts agreed that there is no quantification of benefits and no analysis of the distribution of Plan benefits that would support a finding of equal Plan benefits across customer classes. (*See* Crumrine Tr. 182; Lazare Tr. 135).

Though the Proposed Order's analysis is plainly stated and persuasive, the discussion could benefit from greater clarity of the distinction between the anticipated benefits of the statute and the effects of ComEd's specific plan. That portion of the Proposed Order, like the summary of evidence

addressed above, also should mention specifically the cost of service evidence that impels recognition of class cost differences in the approved recovery mechanism. Accordingly, IIEC recommends that the first paragraph of the Analysis and Conclusions section respecting the single-charge issue (Proposed Order at 37-38) be modified as follows:

While we acknowledge that all consumers will benefit ~~equally~~ from imposition of the statute, as it attempts to confer cleaner air, less peak demand, and less of a need for new generation and other costs ~~in an equal manner~~, the IIEC's approach to recovery of the costs of ComEd's specific Plan, a Plan that has not been shown to benefit all customers equally, is more in conformance with traditional rate-making principles that are enunciated in the Public Utilities Act. Specifically, Section 9-241 provides, in pertinent part that:

No public utility shall, as to rates or other charges, services, facilities or in other respect, make or grant any preference or advantage to any corporation or person or subject any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable differences as to rates or other charges, services, facilities, or in any other respect, either as between localities or as between classes of service.

(220 ILCS 5/9-241). We further note that IIEC's approach is also not unduly complicated. Additionally, it only matches cost recovery with the distribution of program expenditures; re-distributes the funds that have been collected; it does not reduce the amount of funds that a utility will be able to use or how it deploys those funds. (Stephens, IIEC Ex. 1.0 Corr. at 14, lines 234-236 and 227-228). This approach is reasonable and it should be adopted.

For IIEC's response to other arguments that may be presented in the briefs on exceptions of other parties but not addressed in this brief, IIEC relies on the evidence and arguments presented in its Initial Brief in this proceeding.

Therefore, for the reasons stated above, the specified portions of the Proposed Order respecting adoption of IIEC's proposed cost recovery mechanism should be modified to reflect the modest changes recommended in this Brief on Exceptions.

DATED this 1<sup>st</sup> day of February, 2008.

Respectfully submitted,

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